

Office of General Council  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

SEP 10 P 12:10

**Complainant:**

Dale A Clausnitzer  
11160 Vista Sorrento Pkwy., Apt. 302  
San Diego, CA 92130

**RE: MUR 5474**

I filed the above complaint in June of 2004. The general nature of the complaint was the illegal use of corporate assets in connection with a federal election.

Corporate assets can have multiple uses. In a 'for-profit' corporation, an asset of the corporation can be used to generate a profit, but, using or allowing the use of that same asset with the intent to effect a federal election is a clear violation of 114.1(a)(1) and other federal election laws. Election laws do not segregate the corporate use of assets.... they strictly forbid it.

While Dog Eat Dog Films, Inc. may be profiting from the websites and the film Fahrenheit 9/11, they have taken actions, made statements, advocated certain actions and allowed uses which have converted these corporate assets to political election use in violation of 114.1(a)(1).

It also appears that Michael Moore and Dog Eat Dog Films, Inc. intend to continue to defy federal election laws by using the corporate asset on television just prior to the November election (See attached USA Today article dated 9/08/2004).

*"Michael Moore plans to televise Fahrenheit 9/11 before the November election, a move he hopes will help tip votes against President Bush ..."*

It should also be noted that if there is any doubt about the intentions to use this corporate asset to effect a federal election vs. just attempting to win "Best Picture" instead of just "Best Documentary", Moore could have submitted Fahrenheit 9/11 for a documentary award (the due date for submission to the Academy was September 1, 2004) and also still be eligible for the Oscar for best picture (see Academy Rule 12(IV)(3)).

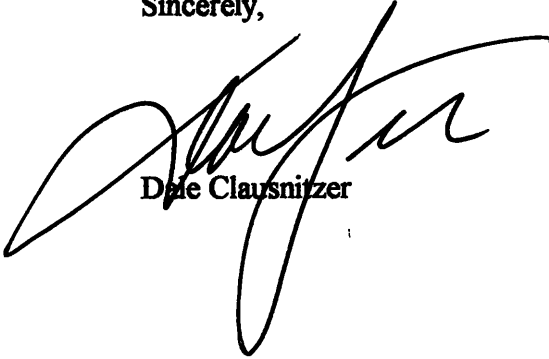
*"3. Films submitted for Documentary Awards consideration may also qualify for Academy Awards in other categories if they meet the specified requirements."*

Therefore, it appears the decision to televise the film just prior to the federal election is based solely on the attempt to use corporate assets to defeat a federal candidate instead of using the film in its' capacity as a 'documentary'.

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Given that there is a clear violation of election law and the respondents intend to continue to violate federal election laws, I would ask the FEC to expedite your review and file an injunction to prevent further violations.

Sincerely,

 Sept. 9, 2004  
Dale Clausnitzer

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# TV airing of 'Fahrenheit' is big Oscar gamble

By Gary Strauss  
USA TODAY

Michael Moore plans to televise *Fahrenheit 9/11* before the November election, a move he hopes will help tip votes against President Bush and bolster the film's chances for a best picture Oscar.

Moore's decision, which had been expected, would eliminate the Bush-bashing film as an Oscar contender for best documentary. The Academy of Motion Picture Arts and Sciences prohibits documentaries televised within nine months of theatrical release from award contention in that category.

If *Fahrenheit 9/11* is nominated, it would be

the first documentary to be up for an Oscar for best picture.

Oscar expert Tom O'Neil of awards Web site [goldderby.com](http://goldderby.com) says Moore's gamble could pay off.

"He could well be the first person to pull it off," O'Neil says. "The movie already has those special qualities — box office, political relevance and an identifiable person behind the project."

Already, the movie has broken barriers. It is the first documentary to top the \$100 million "blockbuster" mark at the box office. Since its June 23 release, *Fahrenheit 9/11* — which cost \$6 million to make and about \$15 million to market — has pulled in more than \$17.6

million in U.S. ticket sales.

Moore, a guest USA TODAY columnist at last week's GOP convention, was unavailable for comment Tuesday. The film's lead distributor, Lions Gate Films, had no comment about televising the movie but has said *Fahrenheit 9/11* might air either on public television or as a pay-per-view event.

Moore has told the Associated Press that the "real Oscar" would be Bush's election defeat. Moore also says he wants documentaries such as *Super Size Me* and *Control Room* to have a better chance at winning an Oscar for the genre. Moore's *Bowling for Columbine* won the category in 2003.

*Fahrenheit 9/11* arrives on DVD Oct. 5.



Lions Gate Films

Trolling for troops: In a scene from the documentary, Sgt. Abdul Henderson and Moore hound Congress members to sign up their children to fight in Iraq.

Copyright © 2004 Lions Gate Films

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**Rule  
Special Rules for The Documentary Awards**

**Twelve**

**I. DEFINITION**

1. An eligible documentary film is defined as a theatrically released non-fiction motion picture dealing creatively with cultural, artistic, historical, social, scientific, economic or other subjects. It may be photographed in actual occurrence, or may employ partial re-enactment, stock footage, stills, animation, stop-motion or other techniques, as long as the emphasis is on fact and not on fiction.

2 A film that is primarily a promotional film, a purely technical instructional film or an essentially unfiltered record of a performance will not be considered eligible for consideration for the Documentary awards.

**II. CATEGORIES**

The Documentary Awards are divided into two categories:

1. Documentary Feature - films more than 40 minutes in running time, and
2. Documentary Short Subject - films 40 minutes or less (including all credits) in running time.

**III. ELIGIBILITY**

1. To be eligible for award consideration for the 2004 awards year, a documentary film must qualify via theatrical exhibition (within two years of the film's completion date) between September 1, 2003 and August 31, 2004. No television or internet transmission shall have occurred at any time anywhere in the world in any version prior to the qualifying run or furthermore contrary to section III.2.B(1) or III.2.B(2) of these rules.

**2. THEATRICAL EXHIBITION REQUIREMENTS**

A.) The Qualifying Exhibition: The film must be publicly exhibited for paid admission in a commercial motion picture theater in either Los Angeles County or the Borough of Manhattan in New York for a run of at least seven consecutive days, by means of 16mm, 35mm or 70mm film or in a 24-frame progressive scan digital format (minimum native resolution 1280 by 1024 pixels), delivered to the screen by an image and sound file format suitable for existing digital cinema sites.

B.) In addition, one of the following two requirements must be met.

(1) The film must have theatrical runs in at least four additional cities, each engagement to be a minimum of two consecutive days. All screenings of the film must begin between 10:00 AM and midnight, and must commence by the day nominations are announced for the 2004 awards year. No television or internet transmission shall occur at any time prior to, or within the nine months following, the first day of the qualifying exhibition, and not before completing the minimum four-city two-day theatrical runs. Any documentary which is transmitted anywhere in the world in any version as a television or internet program within this period will automatically be disqualified from award eligibility

**OR**

(2) If exhibition requirements of the above are not met [III.2 B (1)] then the submitted film must be withheld from television and/or internet transmission until the day nominations are announced for the 2004 awards year. Should the film be nominated, it must be withheld from television and/or internet transmission for an additional nine months following the day nominations are announced.

**3. OTHER REQUIREMENTS AND RESTRICTIONS**

A Public notification of the exhibition(s) is required in the form of paid advertising on the film page of a major newspaper. The ad copy must contain the dates, title and screening times of the film. The ad may either stand alone or appear in combination with the title of another film playing on the same bill. Only one ad is required if it covers all the seven days of the qualifying exhibition.

B. The Academy documentary office requires the submission of a screening information form for the theatrical 7-day qualifying exhibition described in III.2.A above before the exhibition run begins. Upon completion of the run, a letter of validation from the exhibitor must be filed with the Academy office (no later than September 1, 2004, 5:00 PM PDT). For any documentary film fulfilling exhibition rule III.2.B (1) above, Letters of Validation from four exhibitors must be filed with the Academy office within five business days

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from the day nominations are announced for the 2004 awards year. If validation letters are not received by this deadline, then rule III.2 B (2) above shall apply

C. Only individual documentary films will be considered eligible. This excludes from consideration:  
(1) episodes extracted from a larger theme series,  
(2) segments taken from a single "composite" program,  
(3) alternate versions of ineligible films (short or feature-length), and  
(4) short subject documentaries created from materials substantially taken from or cut down from publicly exhibited (in commercial theaters, festivals, and/or television), completed feature length documentaries.

D. Significant dialogue or narration must be in English, or the film must have English subtitles.

#### IV.

#### SUBMISSION

1. The deadline for receiving the completed entry form, synopsis (of the film's subject written in English), theatrical exhibition plan, the film's complete credits list (as they appear on screen), filmographies of the director(s)/producer, stills, 20 VHS/NTSC videocassettes or 20 DVD-Rs and proof of qualifying is WEDNESDAY, SEPTEMBER 1, 2004 5:00 PM PDT. **FOREIGN ENTRIES MUST ALSO COMPLY WITH THIS RULE.** The videocassettes or DVD-Rs submitted to the Academy must be the final product, without trailers or other extraneous content. These materials should be marked "Documentary Entry" and shipped PREPAID to the Academy of Motion Picture Arts and Sciences, 8949 Wilshire Boulevard, Beverly Hills, CA 90211-1972.

2. It is intended that the documentary award statuette be presented on behalf of the entire film to the individual(s) most involved in the key creative aspects of the filmmaking process and most responsible for the film's excellence. To this end, receipt of a statuette shall be limited to two persons, one of whom must be the credited director who exercised directorial control, and the other of whom must have a producer or director credit. If a producer is named, that person must have performed a major portion of the producer functions in the following five areas: acquisition and development, pre-production; production; post-production; marketing and distribution (see "Documentary Producer Definition," obtainable from the Academy). Production companies or persons with the screen credit of executive producer, co-producer, associate producer, produced in association with, or any credit other than that of director or producer, shall not be eligible to receive a statuette on behalf of the film. In the case of a dispute, the Documentary Branch Executive Committee, appointed each year, shall determine and resolve all questions.

3. ~~Films submitted for Documentary Awards consideration may also qualify for Academy Awards in other categories if they meet the specified requirements. However, documentaries may not qualify for the Best Live Action Short Film category, nor will any film submitted for the documentary award be eligible for consideration in any category in subsequent awards years. An Animated Documentary Short Subject may be submitted in either the Documentary Short Subject category or the Animated Short Film category, but not both.~~

#### 4. SEMI-FINAL ROUND

A) For films that reach the semi-final round of voting, 30 additional VHS/NTSC videocassettes or 30 DVD-Rs and two film prints will be required to facilitate further voting. The prints submitted to the Academy must be composite film prints, identical in content and length to the print or data essence utilized for the qualifying exhibition. The deadline for delivery to the Academy of these additional materials are: for Short Subjects, Friday, October 22, 2004; for Features, Wednesday, December 1, 2004

B) The submitted Semi-Final films will be retained by the Academy until the voting process is completed and will not be loaned to anyone outside the Academy during the voting process. One videocassette or one DVD-R will be retained for the Academy's archives to document the entry. Films not chosen as nominations for final balloting, as well as those found to be ineligible in this category, will be returned to the sender at Academy expense. Academy Bylaws (Article VIII, Section 6.) state that "Every award shall be conditioned upon the delivery to the Academy of one print of every film nominated for final balloting . . . such print shall become the property of the Academy, with the proviso, however, that the Academy shall not use such print for commercial gain." **THE ACADEMY WILL RETAIN FOR ITS ARCHIVES ONE PRINT OF EVERY FILM CHOSEN AS A NOMINATION FOR FINAL BALLOTING ON THE DOCUMENTARY AWARDS.**

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**V.**

**VOTING**

1 All eligible documentaries will be screened for Documentary Branch Screening Committees. The Preliminary Screening and Semi-Final Committees will be made up of active and life members of the Documentary Branch who serve on a volunteer basis.

2. Nominations will be determined by an averaged point system of voting using 10, 9.5, 9, 8.5, 8, 7.5, 7, 6.5 or 6. Those films receiving an average score of 8.0 or more shall be eligible for nomination. However, there may not be more than five nor fewer than three nominations. Final voting shall be restricted to active and life Academy members who have viewed all of the nominated achievements in a theatrical setting. Viewing Documentary entries on videocassette or DVD-R will NOT qualify a member for voting purposes in the Final voting stage of these categories, with the exception of Screening Committee members who have participated in the Preliminary and/or Semi-Final voting process.

3. The Documentary Branch Executive Committee shall determine and resolve all questions of eligibility or submissions for this year. Additional or altered viewing procedures may be issued to accommodate such annual factors as the number of entries, total viewing hours, size of viewing groups, available venues, or other considerations.

**VI.**

**ADVERTISING**

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**PUBLICITY**

Only films which receive nominations or Awards may refer to their Academy endorsements in advertising and publicity materials. A film which is selected for inclusion in the Semi-Final round competition may not identify itself as an "Academy Award Finalist," "Academy Award Short-list Film" or the like. Nominated or Award-winning documentary short subjects which are subsequently modified to run longer than 40 minutes may not be advertised as Academy Award-nominated or -winning pictures.

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# Diagram of Corporate assets with Political Advocacy Links

